

that the accōn will not lye for saying a woman is A Whore or Baud (albeit they be marryed And then for the gesture I found her in wth that Rogue Tom Hughes as I am charged the s^d Shepard declares himselfe in fo. 80 ut infra if any words be spoke in themselves not actionable of a young woman or man Chargeing them with incontineny or otherwise by which they loose their match the loss of the match must be averred specially Itt is not good Pasch 25 Car. B. R. Ayres Case, Sandersons Case Trin 17 Car. B. C. soe if any words of passion only not acconable be spoken as to say a man is forsworn he is a Rogue Villaine, or the like if any accōn be brought vpon them itt must be mayntayned by a speciall averm^t of losse Co. 4. 15 Now for the last parte of his Charge (vizt) & also that his oathe was false & malicious which he would prove, this I likewise Conceive is not actionable for the s^d Shepard sayth fo. 77. soe in a Case depending betweene A. and B. in the Kings bench certaine Affidavitts being openly read in the Court the def^t sayth openly there is not a word true in them as I can prove by twenty Wittnesses this is not actionable Pasch 15 Car. B. R. Moltons Case Besides may itt please yo^r honors when I spoke the words itt was not soe much as an Affid^t vntill sworne to noe affid^t & itt was some space of tyme before she had deposed Lastly to give yo^r honors fuller sattisfaccōn haveing as I humbly Conceive sufficiently proved nothing in my adversarys Charge can be acconable I shall now proue alsoe vnder correccōn of this hono^{ble} Court that grant they were acconable in themselues yett as they are Charged they can beare noe action and that by the afores^d Shepard who fo. 44 sayth they must be Charged with the very words false and malitious false et malitiose or itt is not accōnable both which words must be found by a Jury for if they finde one of the words & not the other the accōn will not lye as in folio: 85 Norman & Symonds case the plt brought an accōn for words & declared that they were spoken false & malitious the Jury finde the words false et injuriose & itt was adjudged the accōn would not lye because the findeing of the Jury doth not warr^t the declaracōn in the substantiall forme of itt, Trin. 7 Car. B. R.

Now I leaue itt to yo^r honors to judge whether itt is possible a Jury can finde both or either of the words being neither vsd nor Charged in my Adversarys declaracōn the s^d Shepard calling them by the title of the substantiall forme of the declaracōn.

Notwithstanding may itt please yo^r honors the better to defend my selfe from the malitious designes of Henry Spinke & that light carryaged woman Ellinor Edwards while she was my servant yo^r pet^r doth not deney any thing of his Charge or declaracōn yett he humbly desires yo^r honors to Consider the